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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181796
Party	Defendant Grendene S.A.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

The H.D. Lee Company, Inc.,
Opposer,

v.

Opposition No. 91181796

GRENDENE S.A.,
Applicant.

APPLICANT’S ANSWER AND DEFENSES TO NOTICE OF OPPOSITION

Grendene S.A.. (“Applicant”) answers the Notice of Opposition (“Notice”) of The H.D. Lee Company, Inc. (“Opposer”) as follows:

1. Applicant admits the allegations of paragraph 1 of the Notice.
2. Applicant denies the allegations of paragraph 2 of the Notice.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Notice, and therefore denies the same.
4. With the exception of the identification of the subject registration numbers, application numbers, and the marks and owners thereof, all of which are admitted to the extent they are consistent with the public record, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Notice, and therefore denies the same.
5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Notice, and therefore denies the same.
6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Notice, and therefore denies the same.
7. Applicant denies the allegations of paragraph 7 of the Notice.
8. Applicant admits that if it is granted a registration, Applicant’s registration will be prima facie evidence of Applicant’s exclusive right to use the mark of Application Serial No.

76/669,723 for the goods specified therein. Applicant denies the remaining allegations of paragraph 8 of the Notice.

9. All allegations not specifically admitted or denied are hereby denied.

AFFIRMATIVE AND OTHER DEFENSES

1. Opposer's Notice fails to state a claim upon which relief can be granted.
2. Opposer's Notice fails by reason of the fact that use of the mark RIDER of the opposed application for the goods stated therein is not likely to cause confusion, mistake, or deception with regard to the source of the goods vis-a-vis the source of Opposer's goods allegedly provided under its RIDERS and STORM RIDER marks.
3. The Notice is barred by laches.
4. The Notice is barred by acquiescence.
5. The Notice is barred by unclean hands.
6. The Notice is barred by estoppel.
7. The Notice is barred by license.
8. The Notice is barred by res judicata.
9. The Notice is barred by collateral estoppel.
10. Registration of Applicant's mark for Applicant's goods would not result in any legally cognizable damage to Opposer or any rights Opposer may have in its asserted marks.
11. Opposer's Notice fails by reason of the fact that Applicant has used its RIDER mark for footwear in commerce in the United States since before Opposer first used its RIDERS and STORM RIDER mark for footwear in commerce in the United States.
12. Opposer's Notice fails by reason of the fact that Opposer does not hold any superior right to exclusive use of the mark RIDER or any mark confusingly similar thereto for footwear.
13. The Notice fails by reason of the fact that Opposer will not be damaged by registration of the RIDER mark of the '723 application for the goods listed therein because, among other things, Applicant already owns incontestable U.S. Registration No. 1,857,737, of

record in the opposed application, issued October 11, 1994, for a very similar RIDER mark for goods which are substantially identical to the goods of the '723 application.

14. Applicant reserves the right to assert such other and further defenses including, but not limited to, affirmative defenses, as it may become aware of in the course of this proceeding.

PRAYER FOR RELIEF

WHEREFORE, Applicant prays that the Board deny all relief requested by Opposer herein, that the Board dismiss the Opposition Proceeding with prejudice against Opposer, and that the Board grant Applicant such other and further relief as it deems just.

Respectfully Submitted,

LUEDEKA, NEELY & GRAHAM, P.C.

Dated: October 16, 2008

By: s/Michael J. Bradford
Mark S. Graham, Reg. No. 32,355
Michael J. Bradford, Reg. No. 52,646
LUEDEKA, NEELY & GRAHAM, P.C.
P.O. Box 1871
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Certificate of Service

This is to certify that a true and correct copy of the foregoing is being served on counsel of record, by first class mail, postage prepaid, addressed to Christopher M. Turk, The H. D. Lee Company, Inc., 3411 Silverside Road, Wilmington, DE 19810, the attorney for the Opposer.:

Date: October 16, 2008

s/Michael J. Bradford
Michael J. Bradford